IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4630 OF 1999

Shivaji Vidyapeeth Sevak Sangh,
Kolhapur, through its President,
Prabhakar Atmaram Sawant, having
office at Shivaji University, Kolhapur. .. Petitioner

v/s.

1. The Vice-Chancellor,
   Shivaji University, Kolhapur.

2. Registrar,
   Shivaji University, Kolhapur.

3. State of Maharashtra,
   Through the Secretary, Education &
   Employment Department,
   Mantralaya, Mumbai -400 032.

4. Principal B.M. Hirdekar,
   23/4, Tarabai Park,
   Himmat Bahadur Parisar, Kolhapur.

5. Shri V.N. Shinde,
   C/o. A.B. Jagtap,
   Patil Pilots, Shivajinagar,
   Barshi- 413 411, Dist. Kolhapur.

6. Smt. Rajashree Bharat Patil,
   261, E-Ward, Tarabai Park,

7. Shri Jagannath Sitaram Patil,
   C/o. Department of Journalism,
   Shivaji University, Kolhapur.

8. Smt. Vibha Laxman Antredi,

85, June Solapur.

9. Ashok Ganapati Kadam,
KSF Housing Society,
Near Palace Area, Ramanmal,
Kolhapur.

10. Shri Chandrakant Dinkarrao Pawar,
Sudin, Plot No.182, R.K. Nagar
Society No.1, Kolhapur.

11. Bartakke Shrikant Manohar

12. Mahadeshwar Ashwini A.

13. Patil Suresh M.

14. Shinde Ravindranath S.

15. Lad Shivaji M.

16. Gagaekar Shriniwas J.

17. Magdum Vasant B.

18. Kokate Suresh G.

19. Kadam Manik P.

20. Ghatge Shivaji C.
Respondent Nos.11 to 19,
C/o. Shivaji University, Kolhapur.

21. Smt. Nadaf Jarina Sharikhamed,
R/o. 80, Shivaji Park, Kolhapur.

22. Rathod Ganapati Sitaram
16, Kamal Major, Post Indira
Nagar, Tal. North Solapur,
Dist. Solapur-413 009.

23. Shri J.N. Mehta,
Chancellor's Nominee Member.

24.Shri V.T. Chaugule,
Member of the Management

25.Shri Ram Pawar,
Member of the Management.

Respondent Nos.22 to 24,
C/o.Shivaji University, Kolhapur.

26.University Grant Commission,
Through the Secretary, Office at
Bahadur Shah Jaffar Marg,
New Delhi-110002. .. Respondents

Mr. M.S. Topkar for the petitioner.
Mr. R.G. Ketkar for the respondent Nos.1 and 2.
Mr. S.M. Dave with Mr. S.T. Satelkar for the Respondent Nos.4 to 45.
Mr. Ruie Rodrigues with Mr. B.V. Phadnis for the respondent No.26.

CORAM : F.I. REBELLO AND
R.M. SAVANT, JJ.
DATED : 19TH APRIL, 2007

ORAL JUDGMENT (Per F.I. Rebello, J.)

The petitioner is a registered union of the employees of Shivaji University, Kolhapur. Out of the 836 employees, they have membership of 386.

2. This petition is filed by the President pursuant to the authorisation given to him to persecute the same. Shivaji University, Kolhapur had invited applications for the post of Deputy Registrar, Assistant Registrar and Superintendent. The main grievance of the petitioner is that for the post of Deputy Registrar and Additional

Registrar which were advertised, the University apart from the qualifications as laid down in the standard code had prescribed higher qualifications. This it is set out, is arbitrary and violative of Article 14 of the Constitution of India. In so far as the posts of Superintendent are concerned, it is set out that the persons have been selected who did not work in the similar capacity and on that count their appointments are liable to be set aside. Therefore, the declaration is sought that the appointments of the respondent Nos.4 to 22 to the post of Deputy Registrar, Assistant Registrar and Superintendent are illegal and are liable to be set aside. Respondent Nos.4 and 5 were selected as Deputy Registrars, Respondent Nos.6 to 10 were selected as Assistant Registrars and Respondents Nos.12 to 22 were selected as Superintendents.

3. Reply has been filed on behalf of the University by the acting Registrar. It is firstly set out that the petitioner cannot maintain this petition through Shri Prabhakar Atmaram Savant as he is not duly authorised to file the petition having regard to the constitution of the Union. It is then set out that two sets of qualifications were prescribed, one as laid down in the Maharashtra Non-Agricultural Universities and and Affiliated Colleges Standard Code (Terms and Conditions of Service of Non-Teaching Employees) Rules, 1984 which shall be referred to as the Rules, and the other as prescribed by the University Grants Commission as per the notification dated 24th December, 1998. The candidates who wished to avail of the higher scale of pay prescribed by the U.G.C. had to fulfill the requirements laid down by the U.G.C. The candidates who fulfill the requirements as per the Rules were entitled to the pay scale as per the Rules. Considering the provisions of the University Grants Commission Act,

the 96 affiliated colleges are bound to follow the qualifications for recruitment/promotion laid down by the University Grants Commission. It is also pointed out that all candidates who met with the qualifications under the Standard Code were considered for the post of Deputy Registrar and the Assistant Registrar. It is only those who were found more meritorious were selected. In so far as appointment of Superintendent is concerned, it is set out that respondent Nos.19 and 20 were working as Assistant Superintendent in the University. Respondent Nos.13,15,16,17 and 18 were working as senior clerks and respondent No.4 was working as Lab Assistant having pay scale of the Assistant Superintendent which is Class III post. The respondent No.11 was working as Junior Clerk. The respondent Nos.11 and 12 who were working in Class III post were eligible for appointment for the post of Superintendent in Class II post. All the persons had administrative experience of more than 15 years in similar capacity that is from Class III. All of them were working in posts in similar capacity.

4 Reply has also been filed on behalf of the respondent Nos.4 to 22. It is pointed out that respondent Nos.9,10,11 and 20 are members of petitioner's union and continue to be its members. The respondents, it is set out, had not given any authority to the President of the petitioner-union to file the present petition. In the civil suit which was filed, the Civil Court held held that Shri P.A. Sawant had no authority to institute the suit. The petition is based on the same resolution. It is pointed out that Shivaji University had duly obtained clarification regarding the similar capacity from the Director of Higher Education as well as Higher Education Secretariat and considering their explanations, the criteria of interpretation of similar capacity was

finalised by University authorities. All the respondents are eligible.

5. Reply has been filed by Ramesh Bapurao Kulkarni, Administrative Officer in the office of the Joint Registrar, Higher Education. It is set out that Universities was bound to appoint, recruit and fill in the various non-teaching posts in accordance with the provisions of the Standard Code, 1984. If different standards are prescribed for recruitment, they will be contrary to the Standard Code. The attention is invited to some discrepancies in the matter of appointment.

6. Before we proceed to answer, we may point out that during the pendency of the petition, the respondent No.5 who was selected did not join. The respondent; No.7 resigned. Respondent Nos.9 and 10 have been reverted.

7. The reliefs sought in the petition are to declare the appointments null and void.

8. The first question that we have to answer is whether Shri P.A. Savant had authority to maintain the petition on behalf of the Union. Though the respondents had disputed the right of Shri Savant, the resolution produced is only the resolution which was considered by the civil court and it was held that Shri S.A. Savant had no authority. The authority was only to continue the proceedings which were pending. The resolution, therefore, does not confer a specific power, generally or specifically, to file the present petition. The decision of the Civil Court has not been challenged in any proceedings. It must, therefore, be held that Shri Savant was not authorised to file the

present petition.

9. The next aspect of the matter that has to be considered is whether the union, apart from the general grievances pertaining to conditions of service can maintain a petition in respect of so called individual deficiancies. No individual employee who had applied and was not selected has challenged the appointment.. The union on the fact of the case, in our opinion, cannot espouse individual's grievances.

10 In so far as the posts of Deputy Registrar and Assistant Registrar are concerned, the only contention urged was that the qualifications prescribed were in addition to what was set out in the Standard Code and as laid down by the University Grant Commission. In our opinion, as long as candidates who were eligible in terms of the Standard Code and who had applied were called for the selection, the petitioner really cannot make out a grievance that as higher qualifications were laid down, the selection done is illegal. It is always open to the Selection Committee amongst those available to select the candidates with better qualifications as long as all candidates with minimum qualifications who had applied were also called for the interview and were considered. In our opinion, therefore, the challenge on that ground cannot be sustained and consequently, must be rejected, in so far as the post of Deputy Registrar and Assistant Registrar.

11. In so far as posts of Superintendent are concerned, the objection raised by the petitioner is that the selected candidates must have worked in the post of Superintendent or equivalent to be

considered eligible for recruitment. In the reply filed by the respondent University, it has been explained that the Shivaji University had duly obtained clarifications regarding similar capacity from the Director Higher Education (Government of Maharashtra) as well as from the Higher Education Secretariat and considering the explanation, the criteria of interpretation of similar capacity was finalised by the University authorities. Respondents 4 to 12 have also pointed out that Shivaji University had duly obtained clarification regarding similar capacity from the Director of Higher Education (Government of Maharashtra) as well as from the Higher Education Secretariat and considering the explanation, the criteria of interpretation of similar capacity was finalised by the University authorities and the same was applied to selection of Class II posts. All candidates selected and appointed to Class II posts were having administrative experience of Class II posts ranging from 15 to 30 years. Apart from that, it may be noted that the selections were done sometime in the year 1999. Most of the selectees were inter-departmental candidates. Some of them are members of the petitioner's union. There is nothing to show that the respondent-University acted arbitrarily. On the contrary, the correspondence exchanged would indicate that it is only after being satisfied that working in similar capacity would include work in Class III posts where the appointments made. It is possible that the expression “similar capacity” can be read in two different contexts. If the similar capacity is to be read as an equivalent post then the probability of the candidates applying unless the post carries the higher pay scale would be limited. Normally it is only those who have experience in lower post who would aspire for the higher post. We are, therefore, not inclined to interfere on that count. After passage of such a long

time, most of those selectees could have gathered their experience in the said post.

In so far as contention that persons were appointed against the reserved posts, the University has pointed out that in so far as respondent Nos.9,10 and 11 were concerned, they have been appointed on temporary basis as per the appointment letters as no qualified reserved candidates are available.

12. For all the aforesaid reasons, we find no merit in this petition. Rule discharged. There shall be no order as to costs.

(F.I. REBELLO, J.)

(R.M. SAVANT, J.)